

**LAKE AND PENINSULA BOROUGH
ASSEMBLY MEETING MINUTES
March 21, 2006**

A. CALL TO ORDER

The regular meeting of the Lake and Peninsula Borough Assembly was called to order by Mayor Glen Alsworth on Tuesday, March 21, 2006 at 11:00 a.m. in the Assembly Chambers of the Lake and Peninsula Borough offices in King Salmon, Alaska

B. ROLL CALL

A quorum was established with Mayor Glen Alsworth and Assembly members Myra Olsen, Lynn Carlson, Hattie Albecker, and David Wilder present. Assembly members Dan Salmon and Sue Anelon were absent. Guests participating in all or part of the meeting included Gregg Naddy, Shell Oil Co., Houston, TX; Dan O'Hara, Naknek; Greg Kingsley, Pilot Point; Art Woinowsky, Ugashik; Lary Hill, Iliamna; John Nelson, Kokhanok; Chip Embretson, Iliamna; Bob Loeffler of Jade North, Anchorage; Steve Atwater, Vince Webster, Laura Hylton, Lake and Peninsula School District. Staff participating in all or part of the meeting included Jeff Currier, Borough Manager; Sheila Bergey, Borough Clerk; Marv Smith, Community Development Coordinator; Helen Allen, Economic Development Coordinator; Don Strand, Finance Officer; Myriah Swartz, Administrative Assistant; and Lamar Cotten, Mining Consultant.

C. APPROVAL OF CONSENT CALENDAR

None.

D. APPROVAL OF AGENDA

A motion was made by Assembly member Myra Olsen and seconded by Assembly member Hattie Albecker to approve the agenda for the March 21, 2006 regular meeting with the addition of agenda item J-6: Resolution to Reopen 1991 Civil Settlement from the Exxon Valdez Oil Spill. Motion passed unanimously by voice vote.

E. APPROVAL OF MINUTES

1. **Regular Meeting, February 21, 2006.** The minutes of the February 21, 2006 meeting were not available.

F. PUBLIC HEARINGS

None.

G. COMMUNICATIONS AND APPEARANCES

1. Introduction of Guests.

a. Greg Naddy, Shell Oil Company. Greg Naddy updated the Assembly on Shell Oil Company's position regarding the Outer Continental Shelf (OCS) 2007-12 five-year leasing plan for the North Aleutian Basin. Shell advocates opening a portion of the North Aleutian Basin planning area for leasing. He said offshore oil and gas development has an outstanding safety and environmental performance record. Benefits for residents include job opportunities, tax revenue, local power, revenue sharing, and equity participation. He requested that comments on the OCS Leasing Plan be addressed to the Minerals Management Service (MMS) to continue the debate on the North Aleutian Basin in the 5-year plan. He added the 60 day comment period on the draft proposed program ends April 11, 2006, and suggested that if the Assembly didn't fully support a leasing program they support further analysis under the 5-year planning process via the environmental impact statement.

The Assembly recessed for lunch at 12:30 p.m. and reconvened at 1:15 p.m. with the same members present.

2. **Planning Commission Report.** Community Development Coordinator, Marv Smith reported on the March 6, 2006 Planning Commission meeting which included updates on capital improvement projects, community profile mapping, GIS, the Borough's Hazard Mitigation Plan, Strategic National Stockpile & Emergency Management training. He also reported the Planning Commission reviewed the proposed changes to Chapter 6.80 of the Borough Code, proposed fees for leasing of Borough lands, and a request for Nationwide Permit #18.

3. **Fisheries Report.** A written report was provided by Chuck McCallum, Borough Fisheries Advisor, which included updates on the Alagnak River Special Harvest Area, BOF action asking the Legislature for authority to create cooperatives, WASSIP, the Exxon Valdez Reopener, and the Magnuson Stevens Act Reauthorization.

A discussion ensued regarding the possible impacts of HB 251. HB 251, if passed, would allow one person to have two permits and allow them to fish both permits from one boat. Assembly member Hattie Albecker stated it would leave local fishermen with less opportunity. Assembly member David Wilder said it would give an advantage to big operators and put small operators at a disadvantage. A motion was made by Assembly member Myra Olsen and seconded by Assembly member David Wilder to write a letter asking for prohibition of HB 251. Motion passed unanimously by voice vote.

In other discussion, the Assembly generally agreed to send the draft letter proposed by Mr. McCallum expressing the Borough's support for an "in-river" set net sockeye harvest for the Alagnak River.

4. **Superintendent's School District Report.** A written report was provided by Steve Atwater, Chief School Superintendent, which included updates on hiring for the 2007 school year, the educator's role on controversial issues, and a proposed LPSD teacher's summer retreat. Vince Webster and Laura Hylton gave an update on the school construction projects.
5. **Finance Report.** A written revenue and expenditure report was provided by Finance Officer, Don Strand.
6. **Economic Development Coordinator's Report.** Economic Development Coordinator, Helen Allen, updated the Assembly on energy issues and development, BBNA's Economic Action Summit in Dillingham scheduled for later in the week, the Lake and Peninsula Business Development Center, and the newly organized artisans cooperative.
7. **Lobbyist Report.** A written report was provided by the Borough's Lobbyist, Mark Hickey, which included updates on significant issues, new legislation, Bills on the move, other Bills, and AML.

H. ORDINANCES AND RESOLUTIONS

1. **Ordinance 06-01:** An Ordinance Repealing and Re-Enacting Chapter 6.80 of the Lake and Peninsula Borough Municipal Code, Entitled "Borough Lands and Resources", and providing for an Effective Date. **ADOPTION**

A motion was made by Assembly member Myra Olsen and seconded by Assembly member David Wilder to adopt Ordinance 06-01. Motion passed by roll call vote: YES: Glen Alsworth, Myra Olsen, David Wilder, Lynn Carlson, and Hattie Albecker. NO: None. ABSENT: Dan Salmon and Sue Anelon. ABSTAIN: None.

2. **Ordinance 06-02:** An Ordinance Amending the Lake and Peninsula Borough Operating Budget for the Fiscal Year Beginning July 1, 2005 and Ending June 30, 2006 (FY-06), and Adopting the Lake and Peninsula Borough Operating Budget for the Fiscal Year Beginning July 1, 2006 and Ending June 30, 2007 (FY-07). **INTRODUCTION.**

Public hearings were scheduled for the April and May Assembly meetings.

A motion was made by Assembly member Hattie Albecker and seconded by Assembly member Lynn Carlson to introduce Ordinance 06-02. Motion passed unanimously by voice vote.

3. **Resolution 06-03:** A Resolution in Support of the Efforts of the Village of Perryville in Obtaining Funds for Dock Facilities Vital to the Future Existence of Perryville.

A motion was made by Assembly member Hattie Albecker and seconded by Assembly member Myra Olsen to adopt Resolution 06-03. Motion passed unanimously by voice vote.

4. **Resolution 06-04:** A Resolution Supporting the Port of Bristol Bay Dock Expansion and Improvements.

A motion was made by Assembly member David Wilder and seconded by Assembly member Lynn Carlson to adopt Resolution 06-04. Motion passed unanimously by voice vote.

5. **Resolution 06-05:** A Resolution Supporting the Minerals Management Service (MMS) Draft 5-year Outer Continental Shelf (OCS) Oil and Gas Leasing Program, Including Cook Inlet and the North Aleutians Basins, for the Expressed Purpose of Obtaining Detailed Information from the Environmental Impact Statement (EIS).

A motion was made by Assembly member Myra Olsen and seconded by Assembly member Hattie Albecker to adopt Resolution 06-05. Motion passed unanimously by voice vote.

I. UNFINISHED BUSINESS

1. **Iliamna Service Area / Discussion.** Lamar Cotten provided a written report and gave a brief overview of service areas and general comments about their applicability in the Lake and Peninsula Borough. He stated that:

Section 10.5 of the State Constitution allows for service areas to provide special services within an organized borough and may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area cannot be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of

taxes, charges, or assessments within a service area to finance the special services.

AS 29.35.45 provides guidelines for the establishment of services areas. Key sections allow that a service area to provide special services in a borough or unified municipality may be established, operated, altered, or abolished by ordinance, subject to (c) of this section. Special services include services not provided by the unified municipality or a higher or different level of services. If voters reside within a service area that provides road, fire protection, or parks and recreation services, abolishment of the service area is subject to approval by the majority of the voters residing in the service area who vote on the question. The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area. The assembly may levy or authorize the levying of taxes, charges, or assessments in a service area to finance the special services. If the assembly authorizes the levying of taxes, charges, or assessments, the rate of taxation and the issuance of bonds are subject to assembly approval. The assembly may by ordinance establish, alter, and abolish differential tax zones within a service area to provide and levy property taxes for a different level of services that that provided generally in the services area. Taxes levied within a differential tax zone that exceed the amount that would have otherwise been levied may only be used for the services provided in that zone.

Article XII of the Lake and Peninsula Borough Charter and Title 10 of the Borough Code spells out a detailed process of how a service area may be established in the Borough. The keys steps involved include:

Criteria: An area within the Borough may be designated a service area to provide services not provided on an area wide basis or to provide a higher level of service that that provided on an area wide basis if:

- A. there is a demonstrated need for the municipal service or services proposed to be provided;
- B. the proposed service area can provide the designated service or services in an economical manner; and
- C. the proposed service or services cannot be provided by an existing service area.

Process:

1. Submission of a detailed petition of signatures of 25% of the number of eligible voters within the proposed service area who voted in the most recent general election or at the assembly's request;
2. Review by clerk and manager;
3. Report (analysis) by manager;
4. Public hearing;
5. Action by Assembly (advance the idea for an election or decline to move the issue forward); and
6. Possible election.

Operation and Management: The Assembly shall manage service areas unless it appoints or provides for an election of a board of directors, subject at all times to the paramount legislative authority of the Assembly. The Assembly may accept, reject, or modify the budget, annual plans, contracts, and other actions of a service area board of directors or commission.

Mr. Cotten stated the constitution is clear in its goals and objectives when establishing service areas. Service areas are not another layer of government

but simply an extension of the existing government. A service area shall not be created if such services can be provided by an existing city. The Assembly may authorize the levying of taxes or other fees for such services. The Assembly is not conveying or relinquishing its authority as the regional local government.

State law expands on the constitutional provisions. State law was recently amended to make it more difficult to alter or abolish certain types of service areas (roads, fire protection, or parks and recreation services) without a vote of the effected residents. The new section came about after a portion of Anchorage was "forced" to pay for police services.

The Lake and Peninsula Borough Code lays out a very clear road map for the Assembly to make a determination of whether to establish a service area. The submission of a petition nor even a positive recommendation by the Borough Manager does not compel the Assembly to hold an election to determine whether an area wants to create a service area. However, even if it does, the decision on the actual shape and form of such a service area is substantially retained by the Assembly. Again, a service area is a creature of the Borough, not an independent government.

In summarizing, Mr. Cotten said the current discussion entails a service area that includes all or some of Newhalen, Iliamna, Nondalton, and the proposed mining area. Putting aside the possible benefits and drawbacks of such a proposal, a discussion of the idea is simply premature. Northern Dynasty Mines now suggests that it will not submit a plan and request the commencement of the Environmental Impact Statement (EIS) process until 2008. Furthermore, the EIS process may take from 3-5 years to complete. Lastly, construction to build the facilities at the site may take 2-3 years.

He said, the method in which the Lake and Peninsula Borough provides services to the Lake Iliamna region is indisputably critical. However, given the present lack of definitive information on a mine and the associated projected impacts coupled with the actual period of the EIS process, construction and development, the need to establish a service area in the near future is extremely questionable. It would be a poor use of staff, Assembly, and the public's time until we have a better idea of local service needs and the sources of funding for such services.

Chip Embretson addressed the Assembly, encouraging the formation of a service area as soon as possible. He said the Iliamna Village Council is recognized by the Borough as the local governing body, but that they don't involve or share information with the non-native population of Iliamna. He added that local services such as EMS, fire, police, and solid waste aren't carried out very well by the Iliamna Village Council. He would like to see services available to local residents at no cost and sees the creation of a service area that includes the mine site as a way to accomplish this.

Jeff Currier asked at what point in the mine development process would trigger the potential service area. Bob Loeffler stated that service areas would best be discussed during the EIS and permitting process.

Assembly member David Wilder encouraged Mr. Embretson to explore the creation of an improvement corporation as a solution to the issues he expressed.

The Assembly generally agreed to refer the issue to the Planning Commission for discussion and its recommendations. No further action was taken.

J. NEW BUSINESS

1. **Planning Commission / Appointment to Vacancy in Seat C, District 1.** The Borough Clerk reminded the Assembly the process for appointment to the Planning Commission was that the Mayor made the appointment to the Planning Commission and the Assembly confirmed the appointment. She told the Assembly two letters of interest had been received from DaWayne Constantine, Nondalton and S.J. Shugak, Pedro Bay. Chip Embretson, Iliamna asked that his name be added for consideration even though the deadline had passed.

Mayor Alsworth appointed DaWayne Constantine to the fill the vacancy in Seat C, District 1 on the Planning Commission. A motion was made by Assembly member Lynn Carlson and seconded by Assembly member David Wilder to confirm Mr. Constantine's appointment by Mayor Alsworth to the Planning Commission.

Assembly member Wilder said the Mayor had made a great choice, and that Mr. Constantine was a good man. Assembly member Carlson said Mr. Constantine had done a great job in turning around Nondalton.

Motion passed unanimously by voice vote.

2. **Southwest Alaska Vocational & Education Center / Request for Contribution.** SAVEC Executive Director Eldon Davidson made a presentation regarding the services provided by SAVEC to area residents, its current funding status, and its future needs for funding; and asked for a contribution from the Borough. He said SAVEC had received approximately \$80,000 since his initial letters asking for contributions had been sent to area organizations. Following a brief discussion on the merits of SAVEC, it was generally agreed that the issue should be discussed with the School Board, and added to the agenda for the next meeting.
3. **Borough Proposed Fisheries Net Gain Philosophy / Discussion.** Mayor Alsworth said he had asked that this issue be added to the agenda because of the unique opportunity for highlighting area fisheries presented because of an article published in which Senator Stevens expressed opposition for the Pebble Project and his concern for the Bristol Bay fishery. He added that all of us are concerned about the Bristol Bay fishery and should take this opportunity to partner to put more fish in Bristol Bay. He said he wasn't sure how to go about it but that ideas for enhancement could include fish ladders for Tazimina Falls and Kokhanok Lake. He encouraged everyone to make a net gain out of Senator Stevens' and our concern to make more habitat and more fish for Bristol Bay. It was generally agreed to write a letter to the appropriate parties to explore the idea and to add the issue to the next agenda.
4. **FAA Aviation System Plan Proposal / Discussion.** Jeff Currier told the Assembly of an opportunity to have the FAA fund an Aviation Plan for the Borough. He said that an Aviation Plan would get the Borough's community needs highlighted in the FAA's eyes and open opportunities for funding projects. He added that the community profile maps could be used as the required local match. He asked the Assembly's permission to approach AIRES Consulting, who recently completed the plan for the Aleutians East Borough, for a proposal to

complete an Aviation Plan for the Borough. The Assembly generally agreed that Mr. Currier should get a proposal from AIRE Consulting for review at the May meeting. No further action was taken.

5. **Nondalton City Council / Fuel Loan.** Mayor Alsworth told the Assembly of emergency action he took to grant a loan to the City of Nondalton for \$16,929.42 in order to purchase fuel. He said the IRS had levied the City's bank account to pay for back taxes, and that the City was unable to access its funds for a fuel purchase. A standard loan agreement was entered into with the City of Nondalton using its revenue sharing to repay the loan.
6. **Resolution to Reopen 1991 Civil Settlement from the Exxon Valdez Oil Spill.** In his monthly fisheries report, Chuck McCallum advised the Assembly that HJR 29 calls on the State and Federal governments to exercise their right to claim up to \$100 million for unforeseen damages from the 1989 Exxon Valdez oil spill, and provided a sample resolution for the Assembly's consideration. A motion was made by Assembly member Myra Olsen and seconded by Assembly member Hattie Albecker to adopt Resolution 06-06 (as submitted in the sample resolution) in support to reopen the 1991 civil settlement from the Exxon Valdez Oil Spill and claim the \$100 million for restoration of populations, habitats, and species suffering unanticipated injury. Motion passed unanimously by voice vote.

K. INFORMATIONAL ITEMS

1. Articles in Petroleum News, Vol. 11, No.9 re: Mining News
2. February 2006 Report Prepared for the Alaska Miner's Association, "An Economic Impact Profile – Alaska's Mining Industry"
3. Feb. 11, 2006 Anchorage Daily News Article re: Pebble Mine
4. Feb. 12, 2006 Anchorage Daily News Article re: Pebble Mine
5. Feb. 13, 2006 Anchorage Daily News Article re: Pebble Mine
6. Dave McClure Letter to Editor of the Bristol Bay Times, Feb. 16, 2006 re: Mayor
7. Letter from Governor Murkowski re: Revenue Sharing
8. Feb. 20, 2006 Anchorage Daily News Article re: Pebble Mine
9. Feb. 22, 2006 Anchorage Daily News Article re: State's Construction Spending to Swell
10. Letter from BBEDC re: Internship Program
11. Letter to Rep. Gabrielle LeDoux re: HCR-29
12. Article from www.mineweb.net, Feb. 23, 2006 re: Pebble Mine
13. Letter to UAF Geophysical Institute re: Support for Alaska Tsunami Education Program
14. Emails to Borough Clerk from Danielle Ryman re: Conflict of Interest
15. Email forwarded to Borough from Mark Hickey re: Article in Mining News
16. Article, "Real Threat to Alaska" by David Keene, *The Hill*
17. North Pacific Fishery Management Council News and Notes, Feb. 2006
18. Letter from BBEDC re: 2006 Seed and Infrastructure Matching Grants
19. Letter to Governor Murkowski re: Pebble Creek Project
20. Letter to Randy Bates/ OPMP re: Review and Approval of Revised Lake and Peninsula Coastal Management Program
21. Email from Craig Schwanke/ ADF&G re: Sport Fishery Numbers
22. Memo to BBNC from Greg Beischer re: Cyanide use in gold ore processing
23. Letter from Governor Murkowski re: SWAMC Resolution in support of Community Dividend Program
24. Governor Murkowski's Action Update for March 3, 2006
25. Letter from David Easter/ DNR re: Lake and Peninsula Borough Final Plan Amendment for the Coastal Management Plan

26. Letter from Port Alsworth Improvement Corporation re: Request for Assistance for Emergency Preparedness
27. Mar. 2, 2006 Bristol Bay Times Letters to the Editor re: Pebble Mine & Mayor Alsworth
28. Mar. 4, 2006 Anchorage Daily News Article re: Senator Stevens on the Pebble Mine
29. Representative Carl Moses' Legislative Briefing, March 5, 2006
30. Articles in Fly Fishermen, March 2006, Vol. 37, No. 3 re: Pebble Mine
31. Letter from Randy Bates/ OPMP re: Coastal and Estuarine Land Conservation Program
32. Senator Gary Stevens, Capitol Report for March 6, 2006
33. Mar. 8, 2006 Anchorage Daily News Article re: Pebble Mine and South Coastal Trail Extension
34. "Pebble Mine issue must weigh harm vs. benefits", guest opinion by Governor Jay Hammond. Article published on April 26, 2005 in Kodiak Daily Mirror
35. Choggiung Village Corporation Press Release re: Pebble Mine
36. Information from Renewable Resources Coalition re: Choggiung Village Corporation
37. Renewable Resources Coalition Mission, Board of Directors, and Officers
38. Mar. 10, 2006 Anchorage Daily News Article re: Pebble Mine
39. Board of Fisheries Intent Statement for ACRs concerning the Naknek River Special Harvest Area and the Alagnak River Special Harvest Area, October 2005
40. News Conference with Rural Alaskan Reporters/ Senator Lisa Murkowski on March 10, 2006

Assembly member David Wilder said he wanted to address the Pebble Project because of all the activity and publicity surrounding the development process. He asked that the Borough strongly encourage Northern Dynasty to enhance its relationship and pursue work with local companies and businesses to show local preference.

Jeff Currier highlighted that #34 of the informational items, stating this was the actual article expressing Governor Jay Hammond's opinion regarding the Pebble Project published in the Kodiak Daily Mirror on April 26, 2005, which is being quoted repeatedly by the opponents of the Pebble Project.

L. MANAGER'S REPORT

Jeff Currier told the Assembly they had been invited by Northern Dynasty Mines to attend a special luncheon on March 28 hosted by the Resource Development Council with Governor Frank Murkowski, the Honorable Ralph Klein, Premier of Alberta; the Honorable Dennis Fentie, Premier of Yukon; and the Honorable John von Dongen, Minister of State for Intergovernmental Affairs, British Columbia to learn more about oil and gas transportation. Assembly members Olsen, Wilder, and Carlson expressed their interest in attending.

Along with Lamar Cotten, Mr. Currier suggested it was time to put together a tour of mines operating in the lower 48 so they can be better informed in making decisions regarding potential mine development. It was generally agreed to ask Bob Loeffler to start to arrange a tour of different mine operations for the Assembly's consideration.

Mr. Currier said he had received a letter from ADF&G regarding the Kvichak Smolt Renumeration Project, stating the scope of the project and its costs. He said he had forwarded the information to Northern Dynasty for their consideration and added that Northern Dynasty will likely fund the project to allow three years of smolt counts on the Kvichak River.

Other items reported on included a letter written by Commissioner Mike Barton regarding the history of the Iliamna – Nondalton Road Project that will be published soon in the newspaper. He also reported that there would be a 27.9% increase in PERS contributions next fiscal year.

M. TIME AND PLACE OF NEXT MEETING

The date for the next regular meeting was set for Tuesday, April 28, 2006 in Iliamna, Alaska.

N. CITIZENS COMMENTS

John Nelson thanked Ms. Bergey for arranging his attendance at the last minute.

Chip Embretson thanked the Assembly for allowing him to attend.

Jeff Currier thanked Sheila Bergey and Helen Allen for making lunch for the meeting.

Lary Hill asked that Planning Commission members be included in any tours of mines operating in the lower 48.

Greg Kingsley and Art Woinowsky expressed their thanks for allowing the Planning Commission to attend.

O. ASSEMBLY COMMENTS

Assembly member Lynn Carlson thanked Mayor Alsworth for his quick response to Nondalton's fuel crisis; and thanked the Mayor, Jeff Currier and Marv Smith for their work regarding the Port Heiden power plant problem.

P. MAYOR'S COMMENTS

Mayor Alsworth told the Assembly he had received a phone call from Governor Murkowski, during which the Governor expressed his appreciation for the Borough's position regarding the Pebble Project in keeping an open mind and allowing the process to continue. The Governor told Mayor Alsworth three major things must happen before the project could move forward: an EIS, a major funding partner, and the permitting process. He added that the State had a team of highly qualified staff standing ready to review plans for development.

Mayor Alsworth also thanked the Assembly for its action at the last meeting regarding HCR 29. He said he was proud to be associated with the Assembly for its foresight and the decision it made in the face of what looked like overwhelming opposition.

Q. EXECUTIVE SESSION

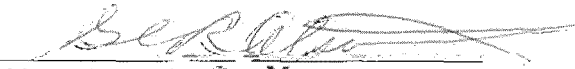
1. Personnel Matters.

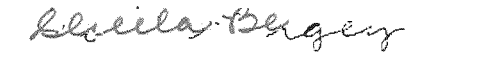
- a. Contract Renewal / Marvin Smith. A motion was made by Assembly member Hattie Albecker and seconded by Assembly member Myra Olsen to adjourn to Executive Session at 5:05 p.m. for the purpose of discussing personnel matters. Motion passed unanimously by voice vote.

The regular meeting reconvened at 5:30 p.m. A motion was made by Assembly member Myra Olsen and seconded by Assembly member Hattie Albecker to renew Marvin Smith's contract, as proposed by the Manager. Motion passed unanimously by voice vote.

R. ADJOURNMENT

A motion was made by Assembly member Hattie Albecker and seconded by Assembly member Lynn Carlson to adjourn the meeting of March 21, 2006 at 5:34 p.m. The meeting was adjourned by unanimous consent.


Glen Alsworth, Sr., Mayor


Sheila Bergey, Borough Clerk

4/18/06
Date

